

for Ameritech to meet and would delay processing updates to the database.

Mr. Harrison stated that Ameritech is opposed to Staff's reporting requirement. Mr. Harrison claimed that reporting every error is costly, time consuming and burdensome. Mr. Harrison stated that in the way of reporting, Ameritech proposes to provide the results of the 20% reconciliation for a period of two years. To demonstrate the accuracy of the PSAP screen Ameritech proposes to report the number of database hits and the number of Trouble Reports per month.

Mr. Harrison responded to three positions taken by TCG: (1) database accuracy as an end result; (2) TCG's dependence on Ameritech to diagnose and correct errors; and (3) TCG's claim that a 100% verification only tells you what you have today. As to the first matter, Mr. Harrison claimed that the service provider is responsible for the end result of the process of database accuracy. As to the second matter, Mr. Harrison claimed that while Ameritech will assist service providers in diagnosing and correcting errors, the service provider must also provide input. As to the third matter, Mr. Harrison claimed that the procedures put in place address database accuracy on an ongoing basis and this works hand-in-hand with a 100% audit.

Ameritech's final rebuttal witness was Mr. John F. Hunt, Product Manager for Ameritech Locator Services. Mr. Hunt stated that he has been the Governor's appointee to the ETSC since 1989 and is currently Vice Chair of the Committee and Chair of the committee's Emerging Technology's subcommittee. Mr. Hunt stated that he is also a

member of the NENA and a member of the Associated Public Safety Communications Officials-International, Inc.

Mr. Hunt stated that the purpose of his testimony was to respond to proposals presented by Staff witness Mr. Celio. Mr. Hunt stated that as to Mr. Celio's proposed standard that all calls shall be accurately processed, the term "accurately" is not included in the Michigan statutes or Ameritech's 9-1-1 tariff. Mr. Hunt claimed that this is due to the fact that 9-1-1 calls may not always be routed to the proper answering or response agency.

Mr. Hunt claimed that Mr. Celio's characterization of 9-1-1 service is incorrect since 9-1-1 service is simply a telephone service that allows the caller to reach a PSAP by dialing 9-1-1. Mr. Hunt further claimed that ALI, Selective Routing, and Automatic Number Identification (ANI) are all optional features of E9-1-1. Mr. Hunt also claimed that ALI is not an essential feature of 9-1-1 service.

Mr. Hunt claimed that, contrary to Mr. Celio's assertion, neither Act 32, nor 1991 PA 179 nor the Oakland County Final Plan specify quality standards for 9-1-1 service. Mr. Hunt claimed that Mr. Celio's proposed "Rehabilitation Plan for Ameritech's 9-1-1 Service" is an attempt to impose improper obligations on Ameritech, place an unreasonable burden on Ameritech related to database verification requirements, and impose financial implications on Ameritech and is inconsistent with existing tariffs and contractual agreements.

Mr. Hunt claimed that Staff's plan would impose substantial financial burdens on Ameritech and cause costs which Ameritech would have to bear without recovery from others. Mr. Hunt further claimed that Staff's plan would require Ameritech to reimburse others for costs that other parties may have caused. Mr. Hunt also claimed that the language in the Staff plan holding Ameritech solely liable for errors and omissions would violate Commission approved tariffs and interconnection agreements with CLECs, the Final Plans of counties and contracts entered into with other LECs for providing 9-1-1 services. Mr. Hunt claimed that as a result, Ameritech would have to re-evaluate its 9-1-1 product offering which might result with removing database features from E9-1-1 service or even eliminating E9-1-1 service altogether.

DISCUSSION, FINDINGS AND CONCLUSIONS

Ameritech contends that Southfield has failed to show that Ameritech has violated Act 32, Oakland County's Final Plan for E9-1-1 service and Ameritech's tariff for E9-1-1 service. Ameritech further contends that Southfield has failed to show that Ameritech's actions constituted gross negligence or willful or wanton misconduct. As a result, Ameritech contends that Southfield has failed to meet its burden of proof in this case.

Ameritech contends that the only evidence proffered by Southfield consists of trouble reports, a description of two specific incidents in which a call-taker's display was not 100% accurate and correspondence from Ameritech describing its plans and

proposed time frame for addressing concerns expressed by Southfield. Ameritech contends that, with respect to the services it provides customers under Act 32 and the Oakland County Final Plan, Ameritech's duty is to satisfy the quality standard established in its 9-1-1 tariff. Ameritech contends that the agreement between TCG and Ameritech provides that Ameritech is a "custodian" for TCG end-use customers. Ameritech contends it has used reasonable diligence in discharging its duties by satisfying the standard required by its 9-1-1 tariff and in meeting its contract obligations to TCG.

Ameritech contends that the existence of trouble reports do not mean a 9-1-1 system failure since trouble reports are part of the 9-1-1 system design. Ameritech states that the combined ANI/ALI/SR service feature of the Oakland County Final Plan is a service feature combination which allows telephone numbers, names and addresses designated by the service supplier to be forwarded to the PSAP display and which allows 9-1-1 calls to be routed to the designated primary PSAP based upon the identification number of the calling party. Ameritech states that, in the event that a 9-1-1 call cannot be selectively routed due to a failure of the ANI feature, garbled digits or other cause, incoming calls are routed to a "default PSAP" under the default routing feature contained in Ameritech's tariff.

Ameritech further contends that the existence of trouble reports do not necessarily indicate problems with the 9-1-1 database since trouble reports can stem from overflow conditions causing default routing and because the 9-1-1 database can be accurate but

the display screen fails to appear because of reasons such as an ANI failure. Ameritech also contends that trouble reports can result from incorrect information being given by the calling party or mistakenly taken down by the call-taker. Ameritech additionally contends that trouble reports can occur as a result of circumstances beyond Ameritech's control such as the use of cellular phones and the use of DID numbers.

Ameritech also contends that trouble reports based on errors on the PSAP display screen may involve information that is not service affecting. Ameritech states that this can occur when the name of a business is accurate but not descriptive or when a pay phone is owned by an entity that has changed its name.

Ameritech contends that while the October 12, 1996 and January 12, 1997 incidents were unfortunate, the record shows that, despite ALI problems, the 9-1-1 system operated as designed because the 9-1-1 calls were answered. Ameritech contends that while October 12, 1996 incident calls were made from telephones with database problems, the calls were appropriately default routed to the Oakland County Sheriff.

Ameritech contends that Exhibit C-2 showed examples of trouble reports where corrections to data took only one business day. Ameritech, also contends that Exhibit C-2 showed delays in the time from the 9-1-1 call and Southfield's submission of trouble reports to Ameritech. Ameritech contends that when other telephone service providers' information is necessary to correct database errors, Ameritech should not be held responsible for such corrections. Ameritech states that, in the instant case, when

problems were identified with TCG end-user data, a process was agreed to among Ameritech, TCG and Southfield whereby TCG would provide information to reload end-user data in September 1996. Ameritech contends that unfortunately this process was not completed before the October 12 incident. Ameritech blames TCG for much of this delay.

Ameritech contends that, in response to concerns expressed by others and even though it has no contractual or statutory obligations, it has been conducting an initial 100% comparison of all CLEC end-user data in the 9-1-1 database to data provided by CLECs. Ameritech contends it has also developed, circulated for industry comment and fully implemented methods and procedures to improve 9-1-1 database integrity.

The Administrative Law Judge finds that, contrary to the position taken by Ameritech, Southfield has met its burden of proof in this complaint proceeding. Contrary to Ameritech's assertion, it was not necessary for Southfield to demonstrate a specific violation of law for Southfield to meet its burden of proof in this proceeding. Likewise, Southfield did not have to show a specific violation of the Oakland County Final Plan or Ameritech's 9-1-1 tariff to meet its burden of proof in this proceeding.

Section 602 of Act 32, MCLA 460.1602, authorized Southfield to bring this "dispute" with Ameritech "regarding their respective rights and duties under this act" to be heard as a contested case before the Commission. Furthermore, this complaint proceeding is appropriately before the Commission because Section 205(1) of Act 179,

associated with the calling party's telephone number as identified by automatic number identification, to the public safety answering point."

"(b) 'Automatic number identification' or 'ANI' means a 9-1-1 service feature in which the service supplier automatically forwards the calling party's billing telephone number to the public safety answering point for display."

The Oakland County Final Plan requires Ameritech to provide Southfield with both ALI and ANI. Section 311 of Act 32, MCLA 484.1311, required Ameritech to implement 9-1-1 service for Southfield in accordance with the Oakland County Final Plan. Therefore, since Southfield is to be provided ALI and ANI, the Administrative Law Judge finds that the quality of this ALI and ANI service is properly to be considered in this proceeding. Contrary to Ameritech's assertion, the accuracy of ALI and ANI provided Southfield is a proper subject for consideration in this proceeding.

The record in this proceeding shows numerous examples of 9-1-1 database problems with Southfield end-use customers, particularly CLECs, but it also shows Ameritech customers. Also, the record indicates numerous instances of misrouted CLEC calls and numerous instances of calls forwarded with misinformation. These certainly are examples of quality of service problems which under section 205(2) of Act 179, MCLA 484.2205(2), the Commission is empowered to grant relief.

The next issue to be addressed is whether relief should be granted in this proceeding. Ameritech contends that Staff's proposal set forth at Exhibit S-14 would

substantially change the responsibilities established by Act 32, Oakland County's Final Plan and Ameritech's 9-1-1 tariff. Ameritech also contends that Staff's proposal would impose penalties inconsistent with Act 32 and Ameritech's 9-1-1 tariff. Additionally, Ameritech contends that Staff's proposed plan is predicated on a misinterpretation of the law.

Ameritech states that Staff's proposal has a quality standard requiring that "all calls shall be accurately processed". Ameritech contends, however, that the term "accurate" is not found in the Oakland County Final Plan, Act 32 or Ameritech's 9-1-1 tariff. Ameritech also contends that Staff improperly construes the term "process" to apply to services provided by Ameritech. In support of its position, Ameritech contends that section 204 of Act 32, MCLA 484.1204, use of "process" concerns the PSAP activity of dispatching emergency service providers.

Ameritech contends that Staff's proposal that Ameritech should be solely responsible to advise, educate and otherwise assist providers of basic local exchange service, is partially met by Ameritech's proposal contained at Exhibit R-19. Ameritech contends, however that other service providers also have responsibilities in the education and development process.

Ameritech contends that Staff's proposal for 100% verification of all telephone numbers and addresses used in supplying 9-1-1 service is completely unrealistic and is not required by law. Ameritech also contends that contrary to Act 32, the Oakland

County Final Plan and Ameritech's tariff, Staff's plan would reassign responsibilities by making it Ameritech's sole responsibility to assure that all access lines and end-user customer information is accurately included in its databases.

Ameritech contends that Staff's proposal would shift responsibility for accurate information from CLECs, other telephone companies and public agencies to Ameritech. Ameritech claims that this is unfair because Ameritech has no way of effectively controlling the accuracy of the information from those sources. Ameritech further contends that by shifting responsibility to Ameritech, other parties will not be motivated to provide Ameritech with accurate and timely information.

Ameritech contends that Staff's proposal to audit the entire database is unnecessary because there has been no showing of need for such a process since Ameritech's error rate does not exceed 1%. Ameritech also contends that the 30-day requirement posed by Staff would be impossible to meet since Ameritech's 9-1-1 database contains approximately 23 million records with 1 million updates of these records per month.

Ameritech contends that Staff's proposal to have Ameritech bear the entire cost of the 9-1-1 verification and correction process would be inconsistent with existing tariff terms. Ameritech specifically contends that Staff's proposal to require Ameritech to reimburse providers, counties and use customers for all "direct costs" associated with activities resulting from errors in 9-1-1 systems and databases is contrary to Ameritech's

tariff set forth at Exhibit R-23.

In contrast to the position it takes on Staff's proposal, Ameritech contends that its own proposal set forth at R-19, is a reasonable and diligent response to an identified problem in the 9-1-1 databases. In support, Ameritech contends that no party in its direct case has criticized Ameritech's proposed solution. Finally, Ameritech contends that its proposal sets forth reasonable methods and procedures which would minimize the potential for errors in the 9-1-1 database.

The Administrative Law Judge finds that Staff's proposed "Rehabilitation Plan for Ameritech's 9-1-1 Service" set forth at Exhibit S-14 should be adopted with a few modifications. The extensive time taken for Ameritech to act on this significant and potentially life endangering problem make it clearly apparent that the plan adopted must provide for fast response times by Ameritech and must contain significant sanctions for non-performance.

Southfield first brought the 9-1-1 database problem to Ameritech's attention in May 1995 and yet in 1996 the problem became worse instead of better. In the summer of 1996, Ameritech transferred responsibility for responding to 9-1-1 database errors from an in-house basis to an outside vendor. The result was an increase in the time taken to have corrections made. The record indicates that it was not until September 1996 that Ameritech started taking any significant action to remedy the problem. However, Ameritech's actions were too late to avoid the October 12, 1996 incident

where 9-1-1 calls reporting an in-process shooting did not correctly indicate the location of the calls and were incorrectly referred to the Oakland County Sheriff's Department "instead of to the Public Safety Department of Southfield."

The apparent lack of importance Ameritech initially placed on remedying its 9-1-1 database problem was clearly demonstrated by Southfield witness Ms. McCormick's experience in bringing the problem to the attention of the ETSC in May and September 1996. When she first brought the problem to the ETSC, Ameritech's senior 9-1-1 executive and committee member, Mr. Hunt, claimed that he had never been advised of the problem even though the problem had been brought to Ameritech's attention one year earlier. Ameritech's apparent lack of concern with the 9-1-1 database problem was further demonstrated when Ms. McCormick again brought the problem to the ETSC's attention in September 1996 only to be again advised by Mr. Hunt that he not was unaware of the problem. While it appears that Ameritech may have recently put forth greater effort in solving the 9-1-1 database problem, there are no assurances that this problem will nor reappear absent adoption of the significant requirements contained in Staff's proposal.

The Administrative Law Judge agrees with Staff that this is a problem where use of a statistical standard is not the answer to assuring the safe operation of the 9-1-1 system. Lives depend on 9-1-1 systems operating properly. If Ameritech's 99% accuracy system is adopted and a life or lives are lost because inaccurate information is contained

in the 9-1-1 database, would Ameritech's system be considered good enough? Even if total perfection in the system is impossible to achieve, should not it be the goal?

Although the Administrative Law Judge finds that Staff's proposal, in large part should be adopted, the Administrative Law Judge finds that three modifications should be made. First, at Part IV Enforcement of Exhibit S-14, one business day should be substituted for 24 hours. While this may increase risk slightly, it is noted that the personnel that perform the work in this area work a regular business week. Requiring error correction of 9-1-1 database records within 24 hours would definitely require a system change and increased Ameritech costs. If corrections can uniformly be made within one business day this would constitute a marked improvement over the correction times indicated in this proceeding.

The Administrative Law Judge finds that a second change should be made at Paragraph D, Part I Ameritech Responsibilities of Exhibit S-14. It is specifically recommended that Paragraph D be changed to state as follows:

"It is Ameritech's responsibility to ensure that all access lines and/or end user customers are accurately included in its databases. The sole exception to this requirement is that if other service providers provide information to Ameritech it is the responsibility of these providers to accurately provide such information to Ameritech."

The Administrative Law Judge finds that a third change should be made to Paragraph A, Part IV Enforcement of S-14. This change is in accord with the change

recommended for Paragraph D, Part I Ameritech Responsibilities. It is specifically recommended that Paragraph A should be changed as follows;

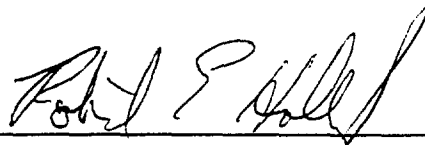
“Ameritech will be liable for errors and/or omissions in any 911 system and/or database irrespective of any tariff, interconnection agreement or similar contracts.”

The final matter to be considered in this proceeding involves Southfield's request for reimbursement of reasonable expenses including attorney fees. Section 601 of Act 179, MCLA 484.2601, authorizes the Commission to grant remedies to “make whole ratepayers and other persons who have suffered an economic loss as a result of this violation”. The Administrative Law Judge finds that Southfield should be reimbursed for reasonable expenses including attorney fees which it has expended. The record in this proceeding shows Southfield acted reasonably and diligently throughout its efforts to obtain a remedy to the problem involved in this proceeding. It appears obvious to this Administrative Law Judge that if Ameritech had initially acted promptly and diligently to solve the problem involved in this proceeding, Southfield's expenses in pursuing their remedy could have been completely avoided.

PROPOSED DECISION

Based upon the preceding discussion, findings and conclusions and upon the record presented in this proceeding, the Administrative Law Judge recommends that the Commission issue its order granting the relief recommended for approval in this Proposal for Decision

MICHIGAN PUBLIC SERVICE COMMISSION



Robert E. Hollenshead
Administrative Law Judge

July 3, 1997
Lansing, Michigan
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ISSUED AND SERVED: July 9, 1997